

COPY

THIS COPY WAS ORIGINALLY FILED IN PENDING
PARENT APPLICATION SERIAL NO. 09/187,763
AND ACCOMPANIES A NEW DIVISIONAL APPLICATION
SUBMITTED HEREWITH

**COMBINED DECLARATION AND POWER OF
ATTORNEY FOR UTILITY PATENT APPLICATION**

Docket No. 221.P1

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I BELIEVE I AM THE ORIGINAL, FIRST AND SOLE INVENTOR (if only one name is listed below)
OR AN ORIGINAL, FIRST AND JOINT INVENTOR (if more than one name is listed below) OF THE
SUBJECT MATTER WHICH IS CLAIMED AND FOR WHICH A PATENT IS SOUGHT ON THE INVENTION

ENTITLED: NUCLEOTIDE ANALOGS

the specification of which:

(check one) X is attached hereto:

 X was filed on July 25, 1997 as

Application Serial No. 08/900.746

and was amended on _____;

(if applicable)

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION,
INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information
which is material to the patentability of the claims of this application in accordance with Title
37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

“(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

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POWER OF ATTORNEY**

Docket No. 221.P1

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
(34 U.S.C. § 119(e))

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

60/022,708

filed

July 26, 1996

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than twelve months prior to this application.

I hereby appoint the following attorneys and agents to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to said invention:

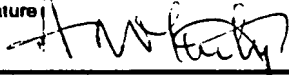
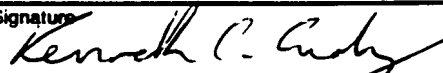
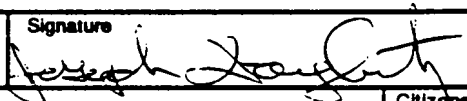
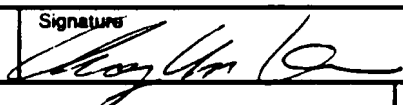
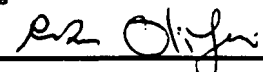
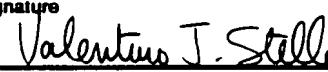
Max D. Hensley - Reg. No. 27,043 Daryl Muenchau - Reg. No. 36,616
Mark L. Bosse - Reg. No. 35,071

and: _____

Address all correspondence to: **GILEAD SCIENCES, INC.**
333 Lakeside Drive
Foster City, California 94404

Address all telephone calls to: Daryl D. Muenchau at 650-573-4712.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of First Inventor Murty N. Arimilli		Signature 	Date 11/14/98
Residence 4789 Ridgewood Drive, Fremont, California 94555, USA		Citizenship India	
Post Office Address same as above			
Full Name of Second Inventor Kenneth C. Cundy		Signature 	Date 1/14/98
Residence 3802 Naughton Avenue, Belmont, California 94002, USA		Citizenship United States	
Post Office Address same as above			
Full Name of Third Inventor Joseph P. Dougherty		Signature 	Date 12/10/97
Residence 340 East 34th Street, Apt. 14D, New York, NY 10016 160 East 48th Street, Apt. 4J 10017		Citizenship United States	
Post Office Address same as above			
Full Name of Fourth Inventor Choung U. Kim		Signature 	Date 1-7-98
Residence 1750 Elizabeth Street, San Carlos, California 94070		Citizenship United States	
Post Office Address same as above			
Full Name of Fifth Inventor Reza Oliyai		Signature 	Date 1-14-98
Residence 116 Victory Circle, San Ramon, California 94583, USA 542 CUTWATER LANE, Foster City, CALIFORNIA 94404		Citizenship United States	
Post Office Address same as above			
Full Name of Sixth Inventor Valentino J. Stella		Signature 	Date Dec 5, 1997
Residence 1324 Lawrence Avenue, Lawrence, Kansas 66049		Citizenship United States	
Post Office Address same as above			

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